IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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WRIT PETITION NOs : 18424 of 2003, 18425 of 2003 &

19441 of 2003

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1) WRIT PETITION NO : 18424 of 2003

Between:

T.Praveena, W/o T.Jaya Shanker, S.G.B.T.Teacher,
Keyes High School for Girls., Secunderabad.

..... PETITIONER

AND

1 State of Andhra Pradesh, rep. by its Secretary, Education Department (SE), Secretariat Buildings, Hyderabad.
2 The Commissioner & Director of School Education, Govt. of Andhra Pradesh., Hyderabad.
3 The Regional Joint Director of School Education, Hyderabad.
4 The District Educational Officer, Hyderabad District., Hyderabad.
5 Keyes High School for Girls, rep. by its Secretary & Correspondent, St.John Road, Secunderabad.
6 Mizbana, SGBT Teacher, Keyes High School for Girls, St.John Road., Secunderabad.
7 Ch. Renuka Devi, SGBT Teacher, Keyes High School for Girls, St.John Road, Secunderabad. … Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or Order or direction especially one in the nature of Mandamus: (i) declaring the action of the respondents 1 to 5 in assigning the date of regular appointment to respondents 6 & 7 ahead of the petitioner and consequently treating them as Seniors to the petitioners is illegal and without jurisdiction; (ii) direct the

respondent Nos.1 to 5 to treat the petitioner as senior to the respondent Nos.6 & 7 and grant all consequential benefits such as promotion etc.

Counsel for the Petitioner: MR.V.JOGAIAH SARMA

Counsel for the Respondents 1 to 4 : GP FOR SCHOOL EDUCATION

Counsel for the Respondent No.5: None appeared.

Counsel for the Respondents 6 & 7: Sri N.Subba Rao

2)WRIT PETITION NO : 18425 of 2003

Between:

V.Vijaya Lakshmi, W/o Sri V.S.N.Murthy, S.G.B.T.Teacher,
Keyes High School for Girls., Secunderabad.

..... PETITIONER

AND

1 State of Andhra Pradesh, rep.by its Secretary, Education Department (SE), Secretariat Buildings, Hyderabad.
2 The Commissioner & Director of School Education, Govt of A.P., Secretariat Buildings, Hyderabad.
3 The Regional Joint Director of School Education, Hyderabad.
4 The District Educational Officer, Hyderabad.
5 Keyes High School for Girls, St.John Road., rep.by its Secretary & Correspondent, Secunderabad.
6 Mizbana, SGBT Teacher, Keyes High School for Girls, Secunderabad.
7 Ch.Renuka Devi., SGBT Teacher, Keyes High School for Girls., Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or Order or direction especially one in the nature of Mandamus: (i) declare the action of the respondents 1 to 5 in assigning the date of regular appointment to respondent No.6 & 7 ahead of the Petitioner and consequently treating them as Seniors to the petitioner is illegal and without jurisdiction; (ii) direct the respondents 1 to 5 to treat the petitioner as senior to the respondents 6 & 7 and grant all consequential benefits such as promotion, etc

Counsel for the Petitioner: MR.V.JOGAIAH SARMA

Counsel for the Respondents 1 to 4: GP FOR SCHOOL EDUCATION

Counsel for the Respondent No.5: None appeared.

Counsel for the Respondents 6 & 7: Sri N.Subba Rao

3)WRIT PETITION NO : 19441 of 2003

Between:

Neel Kamal, W/o J. Ramesh, S.G.B.T.Teacher,
Keyes High School for Girls, Secunderabad

..... PETITIONER

AND

1 State of A.P. rep. by its Secretary, Education Department (SE).,
Secretariat Buildings, Hyderabad
2 The Commissioner & Director of School Education, Govt. of A.P.,
Saifabad, Hyderabad
3 The Regional Joint Director of School Education, Hyderabad
4 The District Educational Officer, Hyderabad District, Hyderabad.
5 Keyes High School for Girls, St.John Road., rep.by its Secretary &
Correspondent, Secunderabad.
6 Mizbaban, SGBT Teacher Keyes High School for Girls,
St. John Road, Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction especially one in the nature of Mandamus (i) declaring that the assignment of date of absorption to the 6th respondent prior to 16-12-1997 affecting the petitioner's rights is illegal, arbitrary and without jurisdiction (ii) declare that the petitioner is entitled to be treated as senior to the 6th respondent as SGBT Teacher and for the grant of all consequential benefits, such as, seniority, promotions, etc; (iii) direct the respondents to treat the petitioner as senior to the 6th respondent as SGBT Teacher and grant all consequential benefits such as seniority, promotion etc.

Counsel for the Petitioner: MR.V.JOGAIAH SARMA

Counsel for the Respondents 1 to 4: GP FOR SCHOOL EDUCATION

Counsel for the Respondent No.5: None appeared.

Counsel for the Respondent No. 6: Sri N.Subba Rao

The Court made the following :

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION Nos. 18424 of 2003, 18425 of 2003

& 19441 of 2003

COMMON ORDER:

Heard Sri V.Jogaiah Sarma, the learned counsel appearing for the petitioners in all the Writ Petitions and the learned Government Pleader for School Education. Since common question arises in all these cases, they are being taken up together for disposal.

The main question as arises from out of the contentions made from both sides is as to whether the petitioners' claim in all these Writ Petitions for seniority over the contesting private respondents herein is sustainable ?

Factually, the petitioner in Writ Petition No.18424 of 2003 was initially appointed as a Teacher with the fifth respondent-school on 28.06.1990 whereas the contesting respondents 6 and 7 were appointed on 24.06.1991 and 08.07.1991 respectively. Subsequently, as per the orders issued by the Government in G.O. Rt. No. 291, dated 04.10.1999, services of the petitioner were approved.

In Writ Petition No.18245 of 2003, the petitioner was appointed with the fifth respondent-school on 26.06.1989 and the respondents 6 and 7 therein were appointed on 24.06.1991 and 08.07.1991 respectively. The services of the petitioner herein were approved as per the aforesaid proceedings of the Government showing her date of appointment as 01.07.1997.

In the other Writ Petition No.19441 of 2003, initially, the petitioner was appointed on 20.07.1994 with the fifth respondent-school therein and her services were regularised aided S.G.B. Teacher on 16.12.1997. Further, the contesting sixth respondent was working in the same

capacity.

There is no dispute to the allegations of the petitioners that in the seniority list prepared by the respondents, the petitioners in all these cases were shown much above the respective contesting respondents. However, now, the main grievance of the petitioners is that the respondents by taking the cut off date as 16.12.1997, sought to show the contesting respondents as seniors to them, which is wholly unsustainable and illegal. Hence, the Writ Petitions.

In the counter affidavit filed on behalf of the respondents, the main submission made is to the effect that the entire process of preparing seniority is based upon absorption of the individual into grant-in-aid secondary grade post as per the proceedings of the Director of School Education dated 23.05.2002 and of the Regional Joint Director of School Education dated 13.06.2002 i.e. with effect from 01.04.1997. Since the petitioners were absorbed in grant-in-aid much later to the respondents, they stand far juniors to the respective contesting respondents and thus, their entire claim is unsustainable.

Considering the submissions made and on perusal of the record, the only question which falls for consideration is as to whether the petitioners can claim seniority over the contesting respondents ?

The undisputed facts are that the petitioners were appointed much earlier to the appointments made in respect of the contesting respondents. There is also no dispute to the fact that the appointments of the petitioners were subsequently approved by the orders of the competent authorities and there is regularisation of their services. Whereas, the case of the contesting respondents is that there is no such approval or regularisation of the services. The principal contention as urged on behalf of the respondents is by

placing reliance on the decision of a Division Bench of this Court in *K.C. High School, Kortharedypalem, Guntur v. Government of Andhra Pradesh, Education Department, Secretariat, Saifabad, Hyderabad & ors.*, wherein while considering the claim in regard to selection and appointment of teachers under the provisions of the Andhra Pradesh Educational Institutions (Establishment, Recognition, Administration and Control of Schools) Rules, 1988, certain guidelines were laid down which also include a specific directive to the effect that the respondents shall extend benefit of grant-in-aid for posts held by such Teachers who are found suitable for continuance with effect from 01.04.1997. Therefore, it is the case of the respondents that such date has been taken and accordingly, the petitioners can not fall back on any other dates.

On a perusal of the entire judgment of the Division Bench, it is seen that the case pertains to the Teachers whose appointments were made temporarily but not approved or regularised. In such a case, in regard to the process of their regularisation and the approval thereof into aided posts, this Court after taking into consideration the full details and the scope of the aforesaid provisions, laid down the principles including the cut off date to be applied. Whereas, in this case, distinctly the services of the petitioners were already regularised and the same was approved. The said decision will not have any application to facts of cases on hand since the petitioners herein do not remain on any temporary appointment on par with the petitioners in the aforesaid decision. In the circumstances, the very approach of the respondents is wholly unsustainable. No other reason has been shown as to why such cut off date is sought to be applied in this case in between the petitioners and the contesting respondents herein. In view of the same, borrowing of the cut off date as shown in the aforesaid decision will not have any application to the facts of this case. Necessarily, the factum of petitioners' regularisation and approval thereof has to be preceded over, above the contesting respondents, whose services remain still unapproved

and not regularised.

In the circumstances, the Writ Petitions are, accordingly, allowed directing the respondents to treat the petitioners as seniors to the respective contesting respondents by taking into consideration their respective dates of appointment. No costs.

(B.Prakash Rao, J.)

09.03.2005

DRK

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on Wednesday the ninth day of March two thousand and five.

… Registrar

Copy to:

1 State of Andhra Pradesh, rep. by its Secretary, Education Department (SE), Secretariat Buildings, Hyderabad.
2 The Commissioner & Director of School Education, Govt. of Andhra Pradesh., Hyderabad.
3 The Regional Joint Director of School Education, Hyderabad.
4 The District Educational Officer, Hyderabad District., Hyderabad.
5 The Secretary & Correspondent, Keyes High School for Girls,

St.John Road, Secunderabad.

6 Two CCs to the G.P. for School Education, High Court of A.P., High Court buildings, Hyderabad (o.u.t.).

7 Two CD copies.